APPENDIX

Section 5 (b) of the Trading with the Enemy Act of 1917 as amended (Oct. 6, 1917, c. 106, 40 Stat. 415; September 24, 1918, c. 176, sec. 5, 40 Stat. 966; Mar. 9, 1933, c. 1, Title I, sec. 2, 48 Stat. 1; May 7, 1940, c. 185, sec. 1, 54 Stat. 179, 50 U. S. C. App. 5 (b))[4] provides:

> During time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, transfers of credit between or payments by or to banking institutions as defined by the President, and export, hoarding, melting, or earmarking of gold or silver coin or bullion or currency, and any transfer, withdrawal or exportation of, or dealing in, any evidences of indebtedness or evidences of ownership of property in which any foreign state or a national or political subdivision thereof, as defined by the President, has any interest, by any person within the United States or any place subject to the jurisdiction thereof; and the President may require any person to furnish under oath, complete information relative to any transaction referred to in this subdivision or

[4] This provision was incorporated into the First War Powers Act of 1941, with substantial revision, none of which is pertinent to this case (Dec. 18, 1941, c. 593, 55 Stat. 839, 50 U. S. C. App. Supp. I, 616).

to any property in which any such foreign state, national or political subdivision has any interest, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed. Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this subdivision the term "person" means an individual, partnership, association, or corporation.

Executive Order No. 8389 (April 10, 1940), 5 F. R. 1400, as amended by Executive Order No. 8405 (May 10, 1940), 5 F. R. 1677, provides:[5]

Executive Order No. 8389 of April 10, 1940, is amended to read as follows:

"AMENDMENT OF EXECUTIVE ORDER NO. 6560, DATED JANUARY 15, 1934, REGULATING TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND THE EXPORT OF COIN AND CURRENCY

"By virtue of the authority vested in me by section 5 (b) of the Act of October 6, 1917 (40 Stat. 411), as amended, and by virtue of all other authority vested in me, I, Franklin D. Roosevelt, President of the

[5] Italics added to designate the language added to Executive Order 8389 by Executive Order 8405.

United States of America, do hereby amend Executive Order No. 6560, dated January 15, 1934, regulating transactions in foreign exchange, transfers of credit, and the export of coin and currency by adding the following sections after section 8 thereof:

" 'SEC. 9. Notwithstanding any of the provisions of sections 1 to 8, inclusive, of this Order, all of the following are prohibited, except as specifically authorized in regulations or licenses issued by the Secretary of the Treasury pursuant to this Order, if involving property in which Norway or Denmark or any national thereof has at any time on or since April 8, 1940, had any interest of any nature whatsoever, direct or indirect, *or if involving property in which the Netherlands, Belgium or Luxembourg, or any national thereof, has at any time on or since May 10, 1940, had any interest of any nature whatsoever, direct or indirect:*

" 'A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside of the United States, of a banking institution within the United States);

" 'B. All payments by or to any banking institution within the United States;

" 'C. All transactions in foreign exchange by any person within the United States;

" 'D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or bullion or currency by any person within the United States;

" 'E. *All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and*

" 'F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

" 'SEC. 10. Additional Reports.

" 'A. Reports under oath shall be filed on such forms, at such time or times and from time to time, and by such persons, as provided in regulations prescribed by the Secretary of the Treasury, with respect to all property of any nature whatsoever of which Norway, Denmark, *the Netherlands, Belgium, or Luxembourg,* or any national thereof is or was the owner, or in which Norway, Denmark, *the Netherlands, Belgium, or Luxembourg* or any national thereof has or had any interest of any nature whatsoever, direct or indirect, and with respect to any acquisition, transfer, disposition, or any other dealing in such property.

" 'B. The Secretary of the Treasury may require the furnishing under oath of additional and supplemental information, including the production of any books of account, contracts, letters, or other papers with respect to the matters concerning which reports are required to be filed under this section.

" 'SEC. 11. Additional Definitions. In addition to the definitions contained in section 7, the following definitions are prescribed:

" 'A. The terms "Norway" and "Denmark," respectively, mean the State and the Government of Norway and Denmark

on April 8, 1940, *the terms "the Netherlands," "Belgium," and "Luxembourg," mean the State and the Government of the Netherlands, Belgium and Luxembourg on May 10, 1940,* and any political subdivisions, agencies and instrumentalities of any of the foregoing, including territories, dependencies and possessions, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. The terms "Norway," "Denmark," *"the Netherlands," "Belgium" and "Luxembourg"* respectively, shall also include any and all other governments (including political subdivisions, agencies, and instrumentalities thereof and persons acting or purporting to act directly or indirectly for the benefit or on behalf thereof) to the extent and only to the extent that such governments exercise or claim to exercise de jure or de facto sovereignty over the area which, on April 8, 1940, constituted Norway and Denmark *and which on May 10, 1940, constituted the Netherlands, Belgium, and Luxembourg.*

"'B. The term "national" of Norway or Denmark shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of Norway or Denmark at any time on or since April 8, 1940, but shall not include any individual domiciled and residing in the United States on April 8, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on April 8, 1940, had its principal place of business in Norway or Denmark or which on or after such date has been controlled

by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of Norway or Denmark at any time on or since April 8, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.

" 'C. *The term "national" of the Netherlands, Belgium or Luxembourg shall include any person who has been or whom there is reasonable cause to believe has been domiciled in, or a subject, citizen or resident of the Netherlands, Belgium or Luxembourg at any time on or since May 10, 1940, but shall not include any individual domiciled and residing in the United States on May 10, 1940, and shall also include any partnership, association, or other organization, including any corporation organized under the laws of, or which on May 10, 1940, had its principal place of business in the Netherlands, Belgium or Luxembourg, or which on or after such date has been controlled by, or a substantial part of the stock, shares, bonds, debentures, or other securities of which has been owned or controlled by, directly or indirectly, one or more persons, who have been, or whom there is reasonable cause to believe have been, domiciled in, or the subjects, citizens or residents of the Netherlands, Belgium or Luxembourg, at any time on or since May 10, 1940, and all persons acting or purporting to act directly or indirectly for the benefit or on behalf of the foregoing.*

"'D. The term "banking institution" as used in section 9 includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution."

"'SEC. 12. Additional Regulations. The Regulations of November 12, 1934, are hereby modified insofar as they are inconsistent with the provisions of sections 9 to 11, inclusive, of this Order, and except as so modified are hereby continued in full force and effect. The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of sections 9 to 11, inclusive, of this Order as amended, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by such agencies as the Secretary of the Treasury may designate.'"

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
May 10, 1940, 7: 55 A. M., E. S. T.

U. S. GOVERNMENT PRINTING OFFICE: 1943